

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

In the specification, paragraphs have been amended on pages 4-5 and 9. One page 4, the paragraph starting on line 9 has been amended to recite the term “plant” instead of “plan.” One page 5, the paragraph starting on line 14 has been amended to include a period at the end of section “p.” On page 9, paragraph [0013] has been amended to include sequence identifiers for the recited sequences. No new matter has been added.

Claim 1 is currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claim as set forth above, claim 1 is now pending in this application.

I. Claim Objection

The Examiner objected to claim as having the term “plan” in part “e.” See Office Action, page 1. Applicants have amended the claim to recite the term “plant.” Applicants therefore respectfully request that the objection be withdrawn.

II. 35 U.S.C. § 112, 1st paragraph and Deposit of Biological Material

The Examiner rejected claim 1 under 35 U.S.C. § 112, 1st paragraph as not being enabled, because the specification allegedly does not describe a repeatable process to obtain the claimed plant. See Office Action, pages 1-2. The Examiner further suggested overcoming the rejection by depositing 2500 seeds of each of the claimed embodiments under the terms of the Budapest Treaty.

Without acquiescing to the merits of the Examiner's rejection and in order to advance prosecution, Applicants submit that they will make a deposit under the terms of the Budapest Treaty and provide either an affidavit or declaration confirming the same, or a statement by an attorney of record over his or her signature and registration number confirming the same.

Applicants respectfully request that the Examiner hold the rejection in abeyance until the deposit has been made.

III. 35 U.S.C. § 112, 2nd paragraph

The Examiner rejected claim 1 under 35 U.S.C. § 112, 2nd paragraph as allegedly being indefinite. See Office Action, page 3. The Examiner stated that the name "CIM-Jeevan" is allegedly arbitrary and does not define the plant, but indicated that the rejection would be overcome by include a deposit number.

Without acquiescing to the merits of the Examiner's rejection and in order to advance prosecution, Applicants submit that they will include a deposit number after the deposit has been made as stated above. Applicants respectfully request that the Examiner hold the rejection in abeyance until the deposit has been made.

The Examiner further rejected claim 1 under 35 U.S.C. § 112, 2nd paragraph as allegedly being indefinite because there is no period after part "p." See Office Action, page 3.

Applicants submit that claim 1 has been amended so that part "p" ends in a period. Applicants therefore respectfully request that the Examiner withdraw the rejection.

IV. Objection to the Specification

The Examiner objected to the specification as having three informalities. See Office Action, page 4. Applicants have amended the specification on pages 4-5 and 9, as described above.

Applicants therefore respectfully request that the objections be withdrawn.

V. Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date: October 9, 1007

By 

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5490
Facsimile: (202) 672-5399

Michael D. Kaminski
Attorney for Applicant
Registration No. 32,904

Matthew E. Mulkeen
Attorney for Applicant
Registration No. 44,250